

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

YIEN-KOO KING,

Plaintiff,

-against-

ANDREW WANG, SHOU-KUNG WANG, BAO WU
TANG, JIAN BAO GALLERY, ANTHONY CHOU,
CHEN-MEI LIN, WEI ZHENG, YE YONG-QING, YUE
DA-JIN and JOHN DOES 1-9,

Defendants.

1:14-Civ-07694-(LJL)(JLC)

DECLARATION OF TIMOTHY SAVITSKY IN SUPPORT OF PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT

Timothy Savitsky, Esq. hereby declares pursuant to 28 U.S.C. § 1746, under penalties of perjury as follows:

1. I am a member of the Bar of this Court in good standing and an attorney at Sam P. Israel, P.C., counsel to plaintiff Yien-Koo King (the "**Plaintiff**") in this action. I submit this declaration based upon my personal knowledge to place before the Court certain facts and documents in support of the Plaintiff's Motion for Partial Summary Judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure ("**FRCP**") and Rule 56.1 of the Local Civil Rules of this Court.

2. The Plaintiff commenced this action against defendants Andrew Wang, Shou-Kung Wang, Bao Wu Tang, Jian Bao Gallery, Anthony Chou, Chen-Mei Lin, Wei

Zheng, Ye Yong-Qing, Yue Da-Jin and John Does 1-9 (together, the “**Defendants**”) on September 23, 2014 by filing a Summons and Complaint.

3. I attest that all documents bearing the bates prefix “WANG” and “AW_SK” were produced by the Wang Defendants and/or their attorney, Martin Klein, Esq., in this action and that I have personal knowledge of this fact pursuant to FRCP 56(c)(4), by way of my direct receipt of these documents from Defendants’ counsel.

4. The emails included herein between Andrew and his agent, Martin Klein, Esq., are exempted from hearsay as statements of a party opponent. Fed. R. Evid. 801(d)(2)(C) - (D).

5. The emails and letters included herein, which were transmitted by Martin Klein, Esq. to Peter Schram, were transmitted in Martin Klein’s capacity as counsel and agent of Andrew Wang with respect to the administration of the Estate and are imputed to Andrew himself. Fed. R. Evid. 801(d)(2)(C) - (D).

6. I have personal knowledge that, including productions from third parties, the Wang Defendants have produced more than 80,000 pages of production, including emails dating back to October 2004.

7. Having conducted a diligent review of the more than 100,000 pages of production in this action and related actions (together with deposition transcripts, court filings, and affidavits, the “Record”), I have personal knowledge that no documents which purport to be emails or written communications between either of the Wang Defendants and the purported buyers of Estate paintings between 2005 and 2009 or “Er Shi Fu” have been produced — other than the signed contracts of sales in dispute.

8. I have personal knowledge that there are no documents in the Record which purport to be email communications between either of the Wang Defendants and Andrew's accountant, Billie Wai.

9. I have personal knowledge that there are no documents in the Record which purport to be wire records demonstrating the sources from which Brown Raysman Millstein, Felder & Steiner, LLP as escrow agent, received the purchase prices for the Estate's sales to "Wei Zheng" and "Chen Mei-Lin."

10. I have personal knowledge that there are no documents in the Record which purport to be emails or faxes referencing a person named "Raymond Ye" and which are dated earlier than November 2014.

11. I have personal knowledge that there are no documents in the Record which purport to be emails or other communications sent between Martin Klein and Andrew Wang that a substitute buyer was found for the "Wei Zheng" sale or that "Wei Zheng" could not complete the contracted to agreement.

12. I have personal knowledge that there are no documents in the Record purporting to be a report of Elin Ewald concerning the Estate's sale of paintings to "Yue Da Jin" dated after May 2, 2008.

13. The email purporting to be from Martin Klein, dated January 6, 2005, to Andrew Wang and purporting to concern a proposed sale of paintings to "Mrs. Raymond Qu" and a Form ST-120 "sales tax resale certificate," is the last dated email which exists in the Record purporting to reference a proposed sale with an individual named "Mrs. Raymond Qu." See Exhibit 36, *infra*, at WANG001927-28.

EXHIBITS

14. On September 27, 2016, the Plaintiffs filed an Amended Complaint. Attached as Exhibit 1 is a true and correct copy of the Plaintiffs' Amended Complaint ("**Amended Complaint**"). (ECF Dkt. 36).

15. On June 1, 2018 after several rounds of motions to dismiss, reargument, and an appeal, the Defendants filed an Answer to the Amended Complaint. Attached as Exhibit 2 is a true and correct copy of the Defendants' Answer to the Plaintiffs' Amended Complaint ("**Defendants' Answer**"). (ECF Dkt. 78).

16. On November 18, 2003, defendant Shou-Kung Wang was deposed in the Probate Proceeding of the Will of Chi Chuan Wang before the Surrogates Court of the State of New York. Attached as Exhibit 3 is a true and correct copy of excerpts from the certified deposition transcript of Shou-Kung Wang dated November 18, 2003 ("2003 SK Deposition"); KING 003233 – KING 003382.

17. Attached as Exhibit 4 is true and correct copy "China Policy," *Milestones: 1977-1980*, U.S. DEP'T OF STATE OFFICE OF THE HISTORIAN, *available at* <https://history.state.gov/milestones/1977-1980/china-policy> ("China Policy").

18. From April 18, 2017 through April 26, 2017, a probate proceeding was held before the Surrogate's Court of New York County to determine if a testamentary instrument executed by Chi-Chuan Wang on February 18, 2003 (the "Fraudulent Will") would be accepted to probate. After a unanimous verdict in favor of Yien-Koo King finding that the Fraudulent Will was a product of both fraud and undue influence, the

Wang Defendants appealed the decision to the New York State Appellate Division, First Department.

19. Attached as **Exhibit 5** is a true and correct copy of excerpts of the 2017 Probate Trial Transcript (“2017 Probate Trial Transcript”) taken from the Joint Appendix submitted by the Wang Defendants to the First Department.

20. Attached as **Exhibit 6** is a true and correct copy of the Decree entered by the New York County Surrogate’s Court on May 9, 2017 which revoked Andrew Wang’s preliminary letters and dismissed Shou-Kung Wang and Andrew Wang’s (together the Wang Defendants) petition to probate an instrument executed by Chi-Chuan Wang and dated February 18, 2003 based upon a unanimous jury verdict that the instrument was a product of fraud and undue influence on the part of the Wang Defendants.

21. Attached as **Exhibit 7** is a true and correct copy of the June 7, 2018 Decision and Order of the New York State Supreme Court, Appellate Division, First Department Affirming the May 9, 2017 Decree of the Surrogate’s Court.

22. Attached hereto as **Exhibit 8** is a true and correct copy of the Decision and Order of the New York State Supreme Court, Appellate Division, First Department, entered January 2, 2020, dismissing the petition of Shou-Kung Wang to probate a codicil date executed by Chi-Chuan Wang and dated February 10, 2003 on the grounds that the petition was collaterally estopped by a jury’s previous finding that it was the product of the Wang Defendants’ fraud and undue influence.

23. Attached hereto as **Exhibit 9** is a true and correct copy of excerpts from the certified deposition transcript of Shou-Kung Wang dated June 24, 2019 (“2019 SK Deposition”).

24. Attached hereto as **Exhibit 10** are true and correct copies of exhibits SK-10 and SK-11 from the 2019 SK Deposition, comprising lists of paintings received by SK Wang and Andrew Wang the spring of 2003.

25. Attached hereto as **Exhibit 11** is a true and correct copy of excerpts from the certified deposition transcript of Andrew Wang dated June 25, 2019 (“2019 AW Deposition”).

26. Attached hereto as **Exhibit 12** is a true and correct copy of excerpts from the certified deposition transcript of Peter Schram dated June 28, 2019 (“Schram Deposition”).

27. Attached hereto as **Exhibit 13** is a true and correct copy of Exhibit 4 from the Schram Deposition (October 22, 2003 letter of Peter Schram, Esq. to John J. Gallagher, Esq. of Brown Raysman Millstein Felder & Steiner, LLP; WANG000310).

28. Attached hereto as **Exhibit 14** is a true and correct copy of excerpts from the certified deposition transcript of Elin Lake-Ewald (“Ewald”) dated June 14, 2019 (“Ewald Deposition”).

29. Attached hereto as **Exhibit 15** are true and correct copies of several exhibits from the Ewald Deposition. Exhibit **ELE-3** comprises photographs taken by Elwald’s art appraisal firm of one of the Estate’s paintings. Exhibit **ELE-17** Comprises an emails from March 2005 between Andrew Wang and Elin Ewald. Exhibit **ELE-18** comprises a report

dated March 17, 2005 issued by Ewald to the Public Administrator of New York County ("PA"). Exhibit ELE-21 comprises an email between the PA, Ethel Griffin, and Ewald regarding Andrew Wang's knowledge and expertise. Exhibit ELE-30 comprises a valuation report issued by Ewald on May 2, 2008 to the PA concerning proposed sale prices in relation to the Estate's sale of paintings to "Mr. Yue Da-Jin."

30. Attached hereto as Exhibit 16 is a true and correct copy of a letter dated October 21, 2003 written by Martin Klein ("Klein"), Andrew Wang's attorney, to Peter Schram; WANG000055.

31. Attached hereto as Exhibit 17 is a true and accurate copy of a list of 108 "C.C. Wang Seals" produced by the Wangs in this action; WANG000064-000071.

32. Attached hereto as Exhibit 18 is a true and accurate copy of emails between Andrew and Klein dated September 26, 2006 regarding the IRS's request for photographs of Estate paintings to conduct their audit; WANG002195-2196.

33. Attached hereto as Exhibit 19 is a true and correct copy of an email communication between Andrew and Klein from October 2004 in which Andrew directs Klein to "tell the PA that I will raise enough cash to cover all legal expe[e]nses upon my return in mid-November"; WANG001878-1879.

34. Attached hereto as Exhibit 20 is a true and correct copy of an email communication between Andrew and Klein from December 2004 in which Andrew explains he knows two private buyers; WANG001888.

35. Attached hereto as Exhibit 21 is a true and correct copy of excerpts from the certified deposition transcript of Martin Klein, dated June 26, 2019 (“Klein Deposition”).

36. Attached hereto as Exhibit 22 is a true and correct copy of an email communication between Andrew and Klein from February 10-15, 2005, wherein Andrew provides wire coordinates for a “Mr. Wei Zheng” on February 11, 2005.

37. Attached hereto as Exhibit 23 is a true and correct copy of an email chain between Andrew and Klein from March 22, 2005, wherein Andrew provides wire coordinates and a Shanghai address for a “Mr. Chen Mei-Lin.”; WANG002084-WANG002085.

38. Attached hereto as Exhibit 24 is a true and correct copy of excerpts taken from the deposition transcript of Andrew Wang, occurring on December 10, 12, 17, and 19, 2013. at 38-39; 60-62, 311-312, 477-478. The Declarant personally attended this deposition.

39. Attached hereto as Exhibit 25 are true and correct copies of exhibits from the deposition of Andrew Wang taken on June 25, 2019. Exhibit AW-1 Comprises Andrew Wang’s Response to First Set of Interrogatories, sworn to on September 7, 2019. Exhibit AW-20 comprises a \$5.9 million residential contract of sale between Fortuna Valentino as the seller and Le Tao Limited as the buyer, signed by Andrew Wang on behalf of Le Tao Limited on April 30, 2013. Exhibit AW-21 comprises an amendment to Exhibit AW-21 amending the name of the purchase to “Andrew Wang, as Trustee of the Shou Kung Wang Irrevocable Trust.” Exhibit AW-21 comprises money transfer records

related to Le Tao Limited's payment of the down payment in relation to AW-20. Exhibit AW-30 are wire records indicating payment to the Estate by Le Style Limited in August 2009.

40. Attached hereto as Exhibit 26 is a true and correct copy of an email between Andrew and Klein from February 11, 2005 concerning the Estate's international shipment of paintings from Crozier Fine Arts; WANG002009.

41. Attached hereto as Exhibit 27 are true and correct copies of communications between Klein and Crozier Fine Arts regarding a shipment to "Mr. Wei Zheng" and dated February 17, 2005; WANG001193.

42. Attached hereto as Exhibit 28 is a true and correct copy of emails from April 29, 2005 through May 25, 2005 between Andrew Wang and Martin Klein concerning a proposed sale to "Mr. Anthony Chou."; WANG002108-2111.

43. Attached hereto as Exhibit 29 is a true and correct copy of the Verified Petition of James E. Tcheng to remove Andrew Wang as preliminary executor of the Estate of Chi-Chuan Wang ("Tcheng Petition"), filed in the New York County Surrogate's Court by the Declarant's law firm in or about May 2014.

44. Attached hereto as Exhibit 30 is a true and correct copy of the Verified Answer of Shou-Kung Wang to the Tcheng Petition sworn to on August 28, 2014 and filed with the Surrogate's Court of New York County.

45. Attached hereto as Exhibit 31 is a true and correct copy of an email received by the Declarant from Carolyn Shields, as attorney for Andrew and Shou-Kung Wang on, November 19, 2014. Though the email was produced by Carolyn Shields, Esq. in this

action, it is identical in all material respects to the email received and maintained at the Declarant's law office; CS032-044.

46. Attached hereto as **Exhibit 32** is a true and correct copy of an email chain between Andrew and Klein dated December 14-15, 2004; WANG001890-1891.

47. Attached hereto as **Exhibit 33** is a true and correct copy of an email chain between Andrew and Klein dated December 20, 2004; WANG001896-1898.

48. Attached hereto as **Exhibit 34** is a true and correct copy of an email chain between Andrew Wang and Klein dated December 20, 2004; WANG001894-95.

49. Attached hereto as **Exhibit 35** is a true and correct copy of an email chain between Andrew and Klein dated December 22, 2004; WANG001904-1906.

50. Attached hereto as **Exhibit 36** is a true and correct copy of an email chain between Andrew and Klein dated January 6, 2005; WANG001927-1928.

51. Attached hereto as **Exhibit 37** is a true and correct copy of an email chain between Andrew and Klein dated January 10, 2005; WANG001929-1932.

52. Attached hereto as **Exhibit 38** is a true and correct copy of an email by Andrew to Klein dated January 10, 2005; WANG003437-3439.

53. Attached hereto as **Exhibit 39** is a true and correct copy of an email chain between Andrew to Klein dated January 10, 2005; WANG001938-1946.

54. Attached hereto as **Exhibit 40** is a true and correct copy of an email chain between Andrew and Elin Ewald ("Ewald") dated January 28, 2005; WANG001949-54.

55. Attached hereto as **Exhibit 41** is a true and correct copy of an email chain between Andrew and Klein dated February 4, 2005; WANG001965.

56. Attached hereto as **Exhibit 42** is a true and correct copy of an email chain between Andrew to Klein dated February 7, 2005; WANG003449.

57. Attached hereto as **Exhibit 43** is a true and correct copy of an email by Klein to Andrew, dated February 9, 2005, attaching a contract of sale, escrow agreement, and export certification.

58. Attached hereto as **Exhibit 44** is a true and correct copy of an email chain between Andrew and Klein, dated February 9, 2005; WANG002004-2005.

59. Attached hereto as **Exhibit 45** is a true and correct copy of an email chain between Andrew and Klein, dated February 9, 2005; WANG003440-3444.

60. Attached hereto as **Exhibit 46** are true and correct copies of the Estate account statements and wire records for the Estate of Ch-Chuan Wang for the periods August 2009, February 2006, September 2005, June 2005, April 2005, and February 2005; WANG001672-1685.

61. Attached hereto as **Exhibit 47** is a true and correct copy of an email chain dated November 18, 2014 between Carolyn Shields, Esq. as counsel for Andrew and Shou-Kung Wang, and the Declarant. Though this exhibit was produced by Carolyn Shields in this action, it is identical in all other material respects to the records maintained by the Declarant's office; CS014

62. Attached hereto as **Exhibit 48** is a true and copy of a fax dated February 17, 2005 from Sonia Amghar of Crozier Fine Arts to Klein, containing a Purchase Agreement and Bill of Sale for Mr. Wei Zheng; WANG001194-1204.

63. Attached hereto as **Exhibit 49** is a true and correct copy of an email chain between Andrew and Klein, dated March 8, 2005, with a draft of Mr. Chen Mei Lin's purchase prices attached; WANG002010-WANG002012.

64. Attached hereto as **Exhibit 50** is a true and correct copy of an email chain between Andrew and Klein, dated March 9, 2005, with a draft of Mr. Chen Mei Lin's purchase prices; WANG002015-2018.

65. Attached hereto as **Exhibit 51** is a true and correct copy of an email chain between Andrew and Klein, dated March 13, 2005; WANG002034.

66. Attached hereto as **Exhibit 52** is a true and correct copy of an email chain between Andrew and Klein dated March 21, 2005; WANG002074.

67. Attached hereto as **Exhibit 53** is a true and correct copy of an email chain between Andrew and Klein, dated March 17-21, 2005, with a draft of Mr. Chen Mei Lin's escrow agreement, contract of sale, and bill of sale; WANG002050-WANG002065.

68. Attached hereto as **Exhibit 54** is a true and correct copy of an April 22, 2005 correspondence between Klein and Schram, enclosing copies of the Contract of Sale, Escrow Agreement, and Bill of Sale regarding the sale of art to Mr. Chen Mei Lin; WANG000993-WANG001017.

69. Attached hereto as **Exhibit 55** is a true and correct copy of March 21, 2005 correspondence between Klein and Schram, enclosing copies of a check, proposed contract for the sale of art to Mr. Chen Mei Lin, and escrow agreement; WANG001039-1054

70. Attached hereto as **Exhibit 56** is a true and correct copy of an April 29, 2005 email from Andrew to Klein, attaching a sales proposal for Anthony Chou; WANG002098-WANG002100.

71. Attached hereto as **Exhibit 57** is a true and correct copy of a May 25, 2005 email chain between Andrew, Schram, and Klein attaching a final Contract and Bill of Sale for Mr. Anthony Chou; WANG002130-WANG002136.

72. Attached hereto as **Exhibit 58** is a true and correct copy of a May 27, 2005 email from Andrew to Klein; WANG003327.

73. Attached hereto as **Exhibit 59** is a true and correct copy of a December 16, 2005 fax from Schram to Klein; WANG001397.

74. Attached hereto as **Exhibit 60** is a true and correct copy of a January 25, 2006 email chain between Klein and Schram; WANG001388.

75. Attached hereto as **Exhibit 61** is a true and correct copy of a March 17, 2005 email chain between Andrew and Klein; WANG002044.

76. Attached hereto as **Exhibit 62** is a true and correct copy of a Crozier shipping invoice dated February 8, 2006; WANG001387.

77. Attached hereto as **Exhibit 63** is a true and correct copy of an email chain between Andrew and Elin Ewald dated May 7, 2008; WANG002233.

78. Attached hereto as **Exhibit 64** is a true and correct copy of a May 2008 email chain between Andrew and Elin Ewald; WANG003432.

79. Attached hereto as **Exhibit 65** is a true and correct copy of a May 19, 2008 email chain between Andrew and Klein, which included a forwarded previous email chain between Andrew and Elin Ewald; WANG002253-2257.

80. Attached hereto as **Exhibit 66** is a true and correct copy of a June 4, 2008 email chain between Andrew and Klein, attaching a Contract of Sale and Bill of Sale for Mr. Yue Da-Jin; WANG003414-WANG003421.

81. Attached hereto as **Exhibit 67** is a true and correct copy of a March 8, 2009 email chain between Andrew and Klein; AWSK_00015263-15267.

82. Attached hereto as **Exhibit 68** is a true and correct copy of the August 17, 2009 Contract of Sale for Mr. Yue Da-Jin; WANG000531-537.

83. Attached hereto as **Exhibit 69** is a true and correct copy of an April 22, 2009 email chain between Andrew and Klein, attaching the Contract of Sale and Bill of Dale for Mr. Yue Da-Jin; WANG002318-2325.

84. Attached hereto as **Exhibit 70** is a true and correct copy of an August 14, 2009 email chain between Andrew and Klein; WANG002328-WANG002331.

85. Attached hereto as **Exhibit 71** is a true and correct copy of an August 24 – September 2, 2009 email chain between Andrew and Maya McCormack of Crozier Fine Arts; WANG002348-WANG002352.

86. Attached hereto as **Exhibit 72** is a true and correct copy of a November 6, 2018 translation of the Bao Wu Tang preface dated November 8, 2009, which I personally ordered from a translation service and caused to be produced. KING 003155-3161.

87. Attached hereto as **Exhibit 73** is a true and correct copy of an email chain

between Andrew Wang and Martin Klein concerning the shipment of paintings under the Estate's contract with Chen Mei Lin.

88. Exhibit 74 is left intentionally blank.

89. Attached hereto as Exhibit 75 is a true and correct copy of excerpts taken from the certified deposition transcript of Kenneth Jay Linsner, occurring on January 28, 2020.

90. Attached hereto as Exhibit 76 is a true and correct copy of a February 4, 2005 email chain between Andrew and Elin Ewald, attaching a price list for Mr. Wei Zheng; WANG001960-1964.

91. Attached hereto as Exhibit 77 is a true and correct image taken from www.zillow.com, an online compendium of rental listings, indicating that Apartment 2C located at 8447 118th Street, Kew Gardens, NY is a one bedroom, one bath apartment, that had a rental listing of \$1,875 per month in 2015. See https://www.zillow.com/homedetails/8447-118th-St-APT-2C-Kew-Gardens-NY-11415/2100268254_zpid/

Dated: New York, New York
February 14, 2020

/s/ Timothy Savitsky
Timothy Savitsky, Esq.
Counsel for Plaintiff Yien-Koo Wang King